

REMARKS

Applicant respectfully requests continued examination of the application pursuant to 37 C.F.R. 1.114. Applicant submits herewith a new claim set directed to construction panels as described in the present application and commensurate with the claims originally filed and elected for prosecution. No new matter has been added by the amendments to the claims.

Prior Prosecution

The present application was filed on October 30, 2003 with claims directed to construction panels (claims 1-13) and methods of making construction panels (1-20). On January 8, 2007, the Examiner issued a written three-way restriction requirement wherein Group I comprised claims 1-13, drawn to a construction panel; Group II comprised claims 14-16, drawn to a method of making a construction panel; and, Group III, comprised claims 17-20 drawn to a method of attaching construction panels. In response, on February 5, 2007, Applicant elected Group 1 directed to constructional panels.

On March 7, 2007, the Examiner issued a first Office Action rejecting claims 1-13 (and withdrawing claims 14-20 due to the election of Group I) as anticipated by Rockstead (US 4,104,842) (claims 1,2,6,8 and 10) or obvious in view of Rockstead when combined with Chen (US 4,611,450). On April 8, 2007, Applicant filed an Amendment amending the claims (and cancelling claims 7 and 11) to, *inter alia*, clarify that the wire mesh members had “outwardly projecting screed ridges.”

On June 27, 2007, the Examiner issued a Final Office Action rejecting the pending claims as amended as obvious in view of the combination of Chen in view of Sacks US 6,820,387). In response, Applicant filed an Amendment to overcome a claim objection and alleged indefiniteness issue, and also argued that the prior art rejection could not stand because Sacks did not disclose “outwardly” projecting screeds, but rather “inwardly” projecting points that could not serve the purpose of a screed. On

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September 18, 2007, the Examiner issued an Advisory Action indicating that the Amendment would not be entered because "The Claims as amended further limit the Claim and would require a further search."

On October 29, 2007, Applicant filed and RCE and responsive submission to the outstanding Office Action. On January 25, 2008, the Examiner issued another Office Action rejecting the claims as obvious in view of the combination of Chen in view of Sacks (and with respect to claim 9, in further view of Salisbury (U.S. 4,104,842)). In response to Applicant's arguments, the Examiner indicated that he disagreed that Sacks did not disclose "two outwardly extending projecting screed ridges" as claimed. In an effort to expedite the issuance of a patent after more than four years of pendency, Applicant's representative conducted a personal interview with the Examiner and his Supervisor on April 23, 2008 to explain the import and novelty of the screed ridges as described and claimed in the application. The rejections and proposed claim amendments were discussed and the Interview Summary notes that an agreement was reached.

On April 25, 2008, pursuant to the agreement reached at the Interview, Applicant amended the claims by canceling all but claim 1, and adding new claim 21, that included the limitations agreed upon to overcome the prior art of record. In the response, Applicant noted that they did "not acquiesce in the rejections" but that the claims were amended to secure allowance of the claims. However, on July 22, 2008, the Examiner issued a Final Office Action rejecting claims 1 and 21 as obvious in view of the combination of Chen, Strand (US 1,664,837), Sacks and Ritter (US 6,272,805). The Office Action indicates that it was made Final because "Applicant's amendment necessitated the new ground(s) of rejection" and that Applicant's arguments were considered but "moot in view of the new ground(s) of rejection as applicant amended the claims."

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Applicant files currently herewith a Request for Continued Examination to address the Examiner's rejections and to present Declarations that demonstrate the patentability of the invention in view of the prior art.

Claim Amendments

Claims 1 and 21 have been cancelled by the present Amendment/Responsive Submission Under 37 C.F.R. 1.114. New claims 22-35 are presented for examination. No new matter has been added by the amendments to the claims.

Claims are to Same Invention

Pursuant to the requirements of 37 C.F.R. 1.145 and MPEP 706.07(h), Applicant submits that the claims are drawn to the same invention as that previously prosecuted. Specifically, in response to the original restriction requirement, Applicant elected Group I, comprising claims 1-13, drawn to construction panels. The presently pending claims are drawn to construction panels and more narrow than original claim 1 filed on October 30, 2003.

35 U.S.C. 103 Rejections

Pursuant to 37 C.F.R. 1.114 and MPEP 706.07(h), Applicant submits herewith a response to the Final Office Action dated July 22, 2008.

In the Final Office Action, claims 1 and 21 were rejected under 35 U.S.C. 103 as allegedly being unpatentable over Chen (US 4,611,450) in view of Strand (US 1,664,837), Sacks (US 6,820,387) and Ritter (US 6,272,805). Applicant respectfully submits that the cancellation of the claims 1 and 21 moot the present rejection. Applicant respectfully submits that new claims 22-35 are patentable over the art of record as set forth in more detail below.

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CONCLUSION

Applicant now believes the present application is in a condition for allowance and early notification of the same is respectfully requested. If the Examiner believes that the prosecution could be advanced through a telephone conversation, then the Examiner is invited to telephone the undersigned.

Respectfully submitted,
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